



Housing and Planning Act 1986

1986 CHAPTER 63

PART I

HOUSING

Other Provisions with respect to public sector housing

6 Consultation before disposal to private sector landlord.

- (1) In Part IV of the ^{M1}Housing Act 1985 (secure tenancies and rights of secure tenants), after section 106 insert—

“106A Consultation before disposal to private sector landlord.

- (1) The provisions of Schedule 3A have effect with respect to the duties of—
- (a) a local authority proposing to dispose of dwelling-houses subject to secure tenancies, and
 - (b) the Secretary of State in considering whether to give his consent to such a disposal,
- to have regard to the views of tenants liable as a result of the disposal to cease to be secure tenants.
- (2) In relation to a disposal to which that Schedule applies, the provisions of that Schedule apply in place of the provisions of section 105 (consultation on matters of housing management).”.
- (2) After Schedule 3 to the Housing Act 1985 insert as Schedule 3A the Schedule set out in Schedule 1 to this Act (consultation before disposal to private sector landlord).
- (3) The amendments made by this section apply to disposals after the commencement of this section.

Changes to legislation: There are currently no known outstanding effects for the Housing and Planning Act 1986, Cross Heading: Other Provisions with respect to public sector housing. (See end of Document for details)

Marginal Citations

M1 1985 c. 68.

7

F1

Textual Amendments

F1 Ss. 7, 13(1)–(3) repealed by Housing Act 1988 (c. 50, SIF 61), s. 140(2), Sch. 18

8 Preservation of right to buy on disposal to private sector landlord.

(1) In Part V of the ^{M2}Housing Act 1985 (the right to buy), after section 171 insert—

“ Preservation of right to buy on disposal to private sector landlord

- (1) The provisions of this Part continue to apply where a person ceases to be a secure tenant of a dwelling-house by reason of the disposal by the landlord of an interest in the dwelling-house to a person who is not an authority or body within section 80 (the landlord condition for secure tenancies).
- (2) In the following provisions of this Part—
 - (a) references to the preservation of the right to buy and to a person having the preserved right to buy are to the continued application of the provisions of this Part by virtue of this section and to a person in relation to whom those provisions so apply ;
 - (b) “qualifying disposal” means a disposal in relation to which this section applies, and
 - (c) the “former secure tenant” and the “former landlord” are the persons mentioned in subsection (1).
- (3) This section does not apply—
 - (a) where the former landlord was a person against whom the right to buy could not be exercised by virtue of paragraph 1, 2 or 3 of Schedule 5 (charities and certain housing associations), or
 - (b) in such other cases as may be excepted from the operation of this section by order of the Secretary of State.
- (4) Orders under subsection (3)(b)—
 - (a) may relate to particular disposals and may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

171B Extent of preserved right ; qualifying persons and dwelling-houses.

- (1) A person to whom this section applies has the preserved right to buy so long as he occupies the relevant dwelling-house as his only or principal home, subject to the following provisions of this Part.
- (2) References in this Part to a “qualifying person” and “qualifying dwelling-house”, in relation to the preserved right to buy, are to a person who has that right and to a dwelling-house in relation to which a person has that right.
- (3) The following are the persons to whom this section applies—
 - (a) the former secure tenant, or in the case of a joint tenancy, each of them ;
 - (b) a qualifying successor as defined in subsection (4) ; and
 - (c) a person to whom a tenancy of a dwelling-house is granted jointly with a person who has the preserved right to buy in relation to that dwelling-house.
- (4) The following are qualifying successors for this purpose—
 - (a) where the former secure tenancy was not a joint tenancy, a person who, on the death of the former secure tenant, becomes by virtue of paragraph 2 or 3 of Part I of Schedule 1 to the Rent Act 1977 (surviving spouse or member of deceased tenant’s family) the statutory tenant of a dwelling-house in relation to which the former secure tenant had the preserved right to buy immediately before his death ;
 - (b) a person who becomes the tenant of a dwelling-house in pursuance of—
 - (i) a property adjustment order under section 24 of the Matrimonial Causes Act 1973, or
 - (ii) an order under Schedule 1 to the Matrimonial Homes Act 1983 transferring the tenancy,in place of a person who had the preserved right to buy in relation to that dwelling-house.
- (5) The relevant dwelling-house is in the first instance—
 - (a) in relation to a person within paragraph (a) of subsection (3), the dwelling-house which was the subject of the qualifying disposal ;
 - (b) in relation to a person within paragraph (b) of that subsection, the dwelling-house of which he became the statutory tenant or tenant as mentioned in subsection (4)(a) or (b) ;
 - (c) in relation to a person within paragraph (c) of subsection (3), the dwelling-house of which he became a joint tenant as mentioned in that paragraph.
- (6) If a person having the preserved right to buy becomes the tenant of another dwelling-house in place of the relevant dwelling-house (whether the new dwelling-house is entirely different or partly or substantially the same as the previous dwelling-house) and the landlord is the same person as the landlord of the previous dwelling-house or, where that landlord was a company, is a

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connected company, the new dwelling-house becomes the relevant dwelling-house for the purposes of the preserved right to buy.

For this purpose “connected company” means a subsidiary or holding company within the meaning of section 736 of the Companies Act 1985.

171C Modifications of this Part in relation to preserved right.

- (1) Where the right to buy is preserved, the provisions of this Part have effect subject to such exceptions, adaptations and other modifications as may be prescribed by regulations made by the Secretary of State.
- (2) The regulations may in particular provide—
 - (a) that paragraphs 5 to 11 of Schedule 5 (certain exceptions to the right to buy) do not apply ;
 - (b) that the right to a mortgage is exercisable against the former landlord or, if the former landlord was a housing association, against the Housing Corporation ;
 - (c) that the provisions of this Part relating to the light to be granted a shared ownership lease do not apply ; and
 - (d) that the landlord is not required to but may include a covenant for the repayment of discount, provided its terms are no more onerous than those of the covenant provided for in section 155.
- (3) The prescribed exceptions, adaptations and other modifications shall take the form of textual amendments of the provisions of this Part as they apply in cases where the right to buy is preserved ; and the first regulations, and any subsequent consolidating regulations, shall set out the provisions of this Part as they so apply.
- (4) The regulations—
 - (a) may make different provision for different cases or descriptions of case, including different provision for different areas,
 - (b) may contain such incidental, supplementary and transitional provisions as the Secretary of State considers appropriate, and
 - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

171D Subsequent dealings ; disposal of landlord’s interest in qualifying dwelling-house.

- (1) The disposal by the landlord of an interest in the qualifying dwelling-house, whether his whole interest or a lesser interest, does not affect the preserved right to buy, unless—
 - (a) as a result of the disposal an authority or body within section 80(1) (the landlord condition for secure tenancies) becomes the landlord of the qualifying person or persons, or
 - (b) paragraph 6 of Schedule 9A applies (effect of failure to register entry protecting preserved right to buy),
 in which case the right to buy ceases to be preserved.

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- (2) The disposal by the landlord of a qualifying dwelling-house of less than his whole interest as landlord of the dwelling-house, or in part of it, requires the consent of the Secretary of State, unless the disposal is to the qualifying person or persons.
- (3) Consent may be given in relation to a particular disposal or generally in relation to disposals of a particular description and may, in either case, be given subject to conditions.
- (4) A disposal made without the consent required by subsection (2) is void, except in a case where, by reason of a failure to make the entries on the land register or land charges register required by Schedule 9A, the preserved right to buy does not bind the person to whom the disposal is made.

171E Subsequent dealings ; termination of landlord’s interest in qualifying dwelling-house.

- (1) On the termination of the landlord’s interest in the qualifying dwelling-house—
 - (a) on the occurrence of an event determining his estate or interest, or by re-entry on a breach of condition or forfeiture, or
 - (b) where the interest is a leasehold interest, by notice given by him or a superior landlord, on the expiry or surrender of the term, or otherwise (subject to subsection (2)),
 the right to buy ceases to be preserved.
- (2) The termination of the landlord’s interest by merger on his acquiring a superior interest, or on the acquisition by another person of the landlord’s interest together with a superior interest, does not affect the preserved right to buy, unless—
 - (a) as a result of the acquisition an authority or body within section 80(1) (the landlord condition for secure tenancies) becomes the landlord of the qualifying person or persons, or
 - (b) paragraph 6 of Schedule 9A applies (effect of failure to register entry protecting preserved right to buy),
 in which case the right to buy ceases to be preserved.
- (3) Where the termination of the landlord’s interest as mentioned in subsection (1) is caused by the act or omission of the landlord, a qualifying person who is thereby deprived of the preserved right to buy is entitled to be compensated by him.

171F Subsequent dealings : transfer of qualifying person to alternative accommodation.

The court shall not order a qualifying person to give up possession of the qualifying dwelling-house in pursuance of section 98(1)(a) of the Rent Act 1977 (suitable alternative accommodation) unless the court is satisfied—

- (a) that the preserved right to buy will, by virtue of section 171B(6) (accommodation with same landlord or connected company), continue to be exercisable in relation to the dwelling-house offered by

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way of alternative accommodation and that the interest of the landlord in the new dwelling-house will be—

- (i) where the new dwelling-house is a house, not less than the interest of the landlord in the existing dwelling-house, or
 - (ii) where the new dwelling-house is a flat, not less than the interest of the landlord in the existing dwelling-house or a term of years of which 80 years or more remain unexpired, whichever is the less; or
- (b) that the landlord of the new dwelling-house will be an authority or body within section 80(1) (the landlord condition for secure tenancies).

171G Land registration and related matters.

Schedule 9A has effect with respect to registration of title and related matters arising in connection with the preservation of the right to buy.

171H Disposal after notice claiming to exercise right to buy, etc.

- (1) Where notice has been given in respect of a dwelling-house claiming to exercise the right to buy or the right to a mortgage and before the completion of the exercise of that right the dwelling-house is the subject of—
- (a) a qualifying disposal, or
 - (b) a disposal to which section 171D(1)(a) or 171E(2)(a) applies (disposal to authority or body satisfying landlord condition for secure tenancies),

all parties shall, subject to subsection (2), be in the same position as if the donee had become the landlord before the notice was given and had been given that notice and any further notice given by the tenant to the landlord and had taken all steps which the landlord had taken.

- (2) If the circumstances after the disposal differ in any material respect, as for example where—
- (a) the interest of the donee in the dwelling-house after the disposal differs from that of the donor before the disposal, or
 - (b) the right to a mortgage becomes exercisable against the Housing Corporation rather than the former landlord, or vice versa, or
 - (c) any of the provisions of Schedule 5 (exceptions to the right to buy) becomes or ceases to be applicable,

all those concerned shall, as soon as practicable after the disposal, take all such steps (whether by way of amending or withdrawing and re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been if those circumstances had obtained before the disposal.”.

- (2) After Schedule 9 to the ^{M3}Housing Act 1985 insert as Schedule 9A the Schedule set out in Schedule 2 to this Act (land registration and related matters where right to buy preserved).
- (3) The amendments made by this section apply to qualifying disposals on or after the commencement of this section.

Changes to legislation: There are currently no known outstanding effects for the Housing and Planning Act 1986, Cross Heading: Other Provisions with respect to public sector housing. (See end of Document for details)

Marginal Citations

M2 1985 c. 68

M3 1985 c. 68.

9 Redevelopment of dwelling-house subject to secure tenancy.

- (1) In Schedule 2 to the Housing Act 1985 (grounds for possession of dwelling houses let under secure tenancies), in Part II (grounds on which court may order possession if suitable alternative accommodation is available), after ground 10 (redevelopment by landlord) insert—

“ Ground 10A

The dwelling-house is in an area which is the subject of a redevelopment scheme approved by the Secretary of State or the Housing Corporation in accordance with Part V of this Schedule and the landlord intends within a reasonable time of obtaining possession to dispose of the dwelling-house in accordance with the scheme.

or

Part of the dwelling-house is in such an area and the landlord intends within a reasonable time of obtaining possession to dispose of that part in accordance with the scheme and for that purpose reasonably requires possession of the dwelling-house.”.

- (2) At the end of that Schedule insert—

“PART V

APPROVAL OF REDEVELOPMENT SCHEMES FOR PURPOSES OF GROUND 10A

- 1 (1) The Secretary of State may, on the application of the landlord, approve for the purposes of ground 10A in Part II of this Schedule a scheme for the disposal and redevelopment of an area of land consisting of or including the whole or part of one or more dwelling-houses.
- (2) For this purpose—
- (a) “disposal” means a disposal of any interest in the land (including the grant of an option), and
- (b) “redevelopment” means the demolition or reconstruction of buildings or the carrying out of other works to buildings or land ; and it is immaterial whether the disposal is to precede or follow the redevelopment.
- (3) The Secretary of State may on the application of the landlord approve a variation of a scheme previously approved by him and may, in particular, approve a variation adding land to the area subject to the scheme.

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- 2 (1) Where a landlord proposes to apply to the Secretary of State for the approval of a scheme or variation it shall serve a notice in writing on any secure tenant of a dwelling-house affected by the proposal stating—
- (a) the main features of the proposed scheme or, as the case may be, the scheme as proposed to be varied,
 - (b) that the landlord proposes to apply to the Secretary of State for approval of the scheme or variation, and
 - (c) the effect of such approval, by virtue of section 84 and ground 10A in Part II of this Schedule, in relation to proceedings for possession of the dwelling-house,
- and informing the tenant that he may, within such period as the landlord may allow (which shall be at least 28 days from service of the notice), make representations to the landlord about the proposal.
- (2) The landlord shall not apply to the Secretary of State until it has considered any representations made to it within that period.
- (3) In the case of a landlord to which section 105 applies (consultation on matters of housing management) the provisions of this paragraph apply in place of the provisions of that section in relation to the approval or variation of a redevelopment scheme.
- 3 (1) In considering whether to give his approval to a scheme or variation the Secretary of State shall take into account, in particular—
- (a) the effect of the scheme on the extent and character of housing accommodation in the neighbourhood,
 - (b) over what period of time it is proposed that the disposal and redevelopment will take place in accordance with the scheme, and
 - (c) to what extent the scheme includes provision for housing provided under the scheme to be sold or let to existing tenants or persons nominated by the landlord ;
- and he shall take into account any representations made to him and, so far as they are brought to his notice, any representations made to the landlord.
- (2) The landlord shall give to the Secretary of State such information as to the representations made to it, and other relevant matters, as the Secretary of State may require.
- 4 The Secretary of State shall not approve a scheme or variation so as to include in the area subject to the scheme—
- (a) part only of one or more dwelling-houses, or
 - (b) one or more dwelling-houses not themselves affected by the works involved in redevelopment but which are proposed to be disposed of along with other land which is so affected,
- unless he is satisfied that the inclusion is justified in the circumstances.

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- 5 (1) Approval may be given subject to conditions and may be expressed to expire after a specified period.
- (2) The Secretary of State, on the application of the landlord or otherwise, may vary an approval so as to—
- (a) add, remove or vary conditions to which the approval is subject ;
 - or
 - (b) extend or restrict the period after which the approval is to expire.
- (3) Where approval is given subject to conditions, the landlord may serve a notice under section 83 (notice of proceedings for possession) specifying ground 10A notwithstanding that the conditions are not yet fulfilled but the court shall not make an order for possession on that ground unless satisfied that they are or will be fulfilled.

6 Where the landlord is a registered housing association, the Housing Corporation, and not the Secretary of State, has the functions conferred by this Part of this Schedule.

7 In this Part of this Schedule references to the landlord of a dwelling-house include any authority or body within section 80 (the landlord condition for secure tenancies) having an interest of any description in the dwelling-house.”.

(3) Section 29 of the ^{M4}Land Compensation Act 1973 (home loss payments) is amended as follows—

- (a) in subsection (1) (circumstances in which, and persons by whom, payment to be made) after paragraph (d) insert—
 - “(e) the making of an order for possession on ground 10 or 10A in Part II of Schedule 2 to the Housing Act 1985 ;” ; and
- (b) in the same subsection, after paragraph (iv) insert—
 - “(v) where paragraph (e) applies, the landlord.”; and
- ^{F2}(c)

(4) In section 32 of the Land Compensation Act 1973 (supplementary provisions about home loss payments), after subsection (7A) insert—

- (Where a landlord obtains possession by agreement of a dwelling subject to a secure tenancy within the meaning of Part IV of the Housing Act 1985 and—
 - (a) notice of proceedings for possession of the dwelling has been served, or might have been served, specifying ground 10 or 10A in Part II of Schedule 2 to that Act, or
 - (b) the landlord has applied, or could apply, to the Secretary of State or the Housing Corporation for approval for the purposes of ground 10A of a redevelopment scheme including the dwelling, or part of it,the landlord may make to the person giving up possession a payment corresponding to any home loss payment which they would be required to

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make to him if an order for possession had been made on either of those grounds.”.

Textual Amendments

F2 S. 9(3)(c) repealed (25. 09. 1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 84(6), [Sch. 19 Pt.III](#); S.I. 1991/2067, [art.3](#)

Marginal Citations

M4 1973 c. 26.

10 Management agreements.

For section 27 of the ^{M5}Housing Act 1985 (agreements with housing co-operatives), and the heading preceding it, substitute—

“ Management agreements

27 Management agreements.

- (1) A local housing authority may, with the approval of the Secretary of State, agree that another person shall exercise as agent of the authority in relation to—
 - (a) such of the authority’s houses as are specified in the agreement, and
 - (b) any other land so specified which is held for a related purpose, such of the authority’s management functions as are so specified.
- (2) In this Act “management agreement” and “manager”, in relation to such an agreement, mean an agreement under this section and the person with whom the agreement is made.
- (3) A management agreement shall set out the terms on which the authority’s functions are exercisable by the manager.
- (4) A management agreement may, where the manager is a body or association, provide that the manager’s functions under the agreement may be performed by a committee or sub-committee, or by an officer, of the body or association.
- (5) The Secretary of State’s approval (which may be given unconditionally or subject to conditions) is required both for the terms of the agreement and the identity of the manager.
- (6) References in this section to the management functions of a local housing authority in relation to houses or land include—
 - (a) functions conferred by any statutory provision, and
 - (b) the powers and duties of the authority as holder of an estate or interest in the houses or land in question.

Changes to legislation: There are currently no known outstanding effects for the Housing and Planning Act 1986, Cross Heading: Other Provisions with respect to public sector housing. (See end of Document for details)

27A Consultation required before management agreement can be approved.

- (1) A local housing authority who propose to enter into a management agreement shall serve notice in writing on the tenant of each house to which the proposal relates informing him of—
 - (a) such details of their proposal as the authority consider appropriate, but including the identity of the person who is to be the manager under the agreement,
 - (b) the likely consequences of the agreement for the tenant, and
 - (c) the effect of the provisions of this section,and informing him that he may, within such reasonable period as may be specified in the notice, make representations to the authority.
- (2) The authority shall consider any representations made to them within that period and shall serve a further written notice on the tenant informing him—
 - (a) of any significant changes in their proposal, and
 - (b) that he may within such period as is specified (which must be at least 28 days after the service of the notice) communicate to the Secretary of State his objection to the proposal,and informing him of the effect of subsection (5) (approval to be withheld if majority of tenants are opposed).
 - (3) The Secretary of State shall not entertain an application for approval of a management agreement unless the local housing authority certify that the requirements of subsections (1) and (2) as to consultation have been complied with; and the certificate shall be accompanied by a copy of the notices given by the authority in accordance with those subsections.
- (4) The Secretary of State may require the authority to carry out such further consultation with their tenants, and to give him such information as to the results of that consultation, as he may direct.
- (5) The Secretary of State shall not give his approval if it appears to him that a majority of the tenants of the houses to which the agreement relates do not wish the proposal to proceed ; but this does not affect his general discretion to withhold his approval on grounds relating to whether the proposal has the support of the tenants or on any other ground.
- (6) In making his decision the Secretary of State may have regard to any information available to him; and the local housing authority shall give him such information as to the representations made to them by tenants and others, and other relevant matters, as he may require.
- (7) A management agreement made with the approval of the Secretary of State is not invalidated by a failure on his part or that of the local housing authority to comply with the requirements of this section.
- (8) In the case of secure tenants the provisions of this section apply in place of the provisions of section 105 (consultation on matters of housing management) in relation to the making of a management agreement.

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27B Agreements with housing co-operatives under superseded provisions.

- (1) In this section “housing co-operative” means a society, company or body of trustees with which a housing co-operative agreement was made, that is to say—
 - (a) an agreement to which paragraph 9 of Schedule 1 to the Housing Rents and Subsidies Act 1975 or Schedule 20 to the Housing Act 1980 applied or,
 - (b) an agreement made under section 27 above before the commencement of section 10 of the Housing and Planning Act 1986 (which substituted the present section 27).
- (2) A housing co-operative agreement made with a local housing authority which is in force immediately before the commencement of section 10 of the Housing and Planning Act 1986 has effect as if made under the present section 27, so that, in particular, any terms of the agreement providing for the letting of land to the housing co-operative no longer have effect except in relation to lettings made before commencement.
- (3) A housing co-operative agreement made with a new town corporation or the Development Board for Rural Wales which is in force immediately before the commencement of section 10 of the Housing and Planning Act 1986 remains in force notwithstanding that the present section 27 does not apply to such authorities.
- (4) In this Act (except in section 27) the expressions “management agreement” and “manager”, in relation to such an agreement, include a housing co-operative agreement to which subsection (2) or (3) applies and the housing co-operative with whom the agreement is made.”.

Marginal Citations
M5 1985 c. 68

F3 11 Proposals for co-operative management or ownership.

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Textual Amendments
F3 S. 11 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), Sch. 1 Pt. 9

Changes to legislation:

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